



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/CV/21/0957

Re: Property at 9 Quarry Road, Paisley, PA2 7RD (“the Property”)

Parties:

Mr Colin Keenan, Mrs Lauren Keenan, 16 Castleview Road, Strathaven, ML10 6HD (“the Applicant”)

Mrs Linsey Arthurs, 9 Quarry Road, Paisley, PA2 7RD (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of £2644.64 be made in favour of the Applicants and against the Respondent.

The Decision of the Tribunal was unanimous.

Background

1. This is an application for a payment order in terms of Rule 111 of the Tribunal Rules of procedure first lodged with the Tribunal on 20 April 2021 along with a separate application for an eviction order. A case management discussion was initially fixed for 6 August 2021. On that date the case management discussion was continued for further information to be provided. A second case management discussion was fixed for 1st October 2021. This was continued again for the Applicants’ representative to provide information which was not available on 1st October. A further case management discussion was fixed for 26 November 2021 and a Direction to the Applicant was issued by the Tribunal.

The Case Management Discussion

2.The case management discussion on 26 November 2021 was attended by Mr Leiper on behalf of the Applicants' representative Rent Locally. There was no appearance by the Respondent who had not attended at any of the prior case management discussions. The Tribunal noted that the date of the case management discussion on 26 November 2021 had been intimated to the Respondent. Mr Leiper moved that the Tribunal proceed in her absence. The Tribunal was satisfied that the Respondent had received appropriate notice of the date and that the case management discussion could proceed in her absence.

3.The Tribunal had sight of the application, a tenancy agreement, a rent ledger, two notes of previous case management discussions, a Tribunal Direction, correspondence sent to the Respondent by the Applicants' representatives, a document setting out correspondence in relation to attempts to make a payment plan for the rent arrears and a number of up-to-date rent statements produced over the case management discussions. The Respondent had lodged a letter from the local council setting out repairs required at the property and the Tribunal had sight of two invoices produced by the Applicant's representative confirming that all work had been carried out.

4.Rent arrears had accrued at the property from early in 2020 but rent had been paid for a number of months prior to the case management discussion on 26 November 2021.Mr Leiper was able to confirm to the Tribunal that the rent arrears up to and including a payment on 5 November 2021 stood at £2644.64. It appeared that some of the rent was now been paid by DWP and some by the Respondent. Attempts had been made to enter into a payment plan with the Respondent in order to clear the rent arrears but these attempts had not been successful. The Respondent had indicated that she would pay more when she could but had not intimated the amount or any date that she would do this from. Mr Leiper advised the tribunal members that the Respondent had made additional payments towards the rent in September and October 2021 but had not made additional payments between May and August 2021. Rent payments appeared now to be being made from DWP and also by the Respondent herself in varying amounts.

5.Mr Leiper advised the Tribunal that it had not been possible for the Applicants to apply to the DWP for a payment in relation to the outstanding rent arrears because there were not continuous arrears which meant that such an application could not be made.

6.In addition the Respondent had emailed the Tribunal displaying a letter from the local council showing that certain repairs required to be made at the property. The Applicants had submitted invoices prior to the case management discussion on 26 November 2021 which confirmed that the work required at the property had been done. The Applicants had been advised that the Respondent had been told to withhold rent pending completion of these repairs but as at the date of the case management discussion rent had continued to be paid.

7.Although rent arrears had reduced slightly against the sum originally requested in the application more than 5 months rent was still in arrears in terms of the tenancy

agreement. Mr Leiper indicated that the arrears were not understood by the Applicants to be due to any delay or failure in the payment of any benefit.

Findings in Fact

8. The Applicants and Respondent entered into a private residential tenancy agreement at the property with effect from 4th October 2018 although the Respondent had been a tenant at the property for some time before that in terms of a previous tenancy agreement.

9. The tenancy agreement between the parties is ongoing and the Respondent still lives at the property.

10. The monthly rent payable in respect of the tenancy is £450 per calendar month.

11. When the tenancy agreement started the Respondent was understood to be working.

12. Difficulties started to occur with the payment of the rent in the early part of 2020.

13. From March 2021 rent payments improved with part of the rent being paid by DWP and some being paid by the Respondent.

14. As of 26th November 2021 the rent arrears stood at £2644.64.

15. Efforts to enter into a payment agreement with the Respondent in August 2021 were not successful as the Respondent did not commit to a plan but said that she would pay towards the rent arrears when she could.

16. The rent arrears are not due to any delay or failure in the payment of any relevant benefit

17. £2644.64 by way of rent arrears accrued during the tenancy is lawfully due by the Respondent to the Applicant.

Reasons for Decision

18. The tribunal was satisfied that although rent payments appear to be being made currently by a combination of payments from the Respondent herself and the DWP, rent arrears amounting to a sum in excess of five months' rent for the property are still due and efforts to set up a realistic payment plan to pay off the arrears had not been successful. It was therefore reasonable to grant a payment order for this sum.

Decision

The Tribunal granted a payment order in the sum of £2644.64 in favour of the Applicants and to be paid by the Respondent.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must

seek permission to appeal within 30 days of the date the decision was sent to them.

Valerie Bremner

Legal Member/Chair

Date 26/11/21